

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5436 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

LADHARAM D BHAVANANI

Versus

GUJARAT HOUSING BOARD & OTHERS

Appearance:

None present for the Petitioner

MRS KETTY A MEHTA for Respondents No.1, 2 & 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/09/96

C.A.V. JUDGEMENT

1. Perused the Special Civil Application and heard learned counsel for the respondents. The petitioner was retired from the services of respondents on attaining age of superannuation on 30th September, 1984. Under the order dated 29th September, 1984, the petitioner was given the reemployment as Divisional Accountant with effect from 1-10-1984 for a period of one year. The petitioner has joined the post on reemployment on

1-10-1984. Under the order dated 8-10-1984, the earlier order dated 29-9-1984 giving reemployment to the petitioner has been postponed by the respondent. Later on, the respondent under its order dated 29-10-1984 informed the petitioner that the earlier order of reemployment which was postponed under the order dated 8-10-1984 will now come into force with effect from 1-11-1984. This order was not given effect to and the petitioner having the apprehension that under the pressure from the trade union, the respondents are likely to postpone the said order, filed this Special Civil application before this court and the prayer has been made for giving effect to the said order.

2. Rule was issued by this Court, and interim relief in terms of Para no.7(c) has also been granted on 31-10-1984. On 22-11-1984, the matter has come up for consideration before this Court and on that day, Ms. K.A. Mehta, learned counsel appearing for the Board made a statement that the decision with regard to reemployment of the petitioner which was under consideration, would be taken on or before November 29, 1984. In view of the aforesaid statement of the counsel for the respondent, ad-interim relief granted on 31-10-1984 was vacated.

3. It appears that the correct statement has not been made before this Court by the counsel for the respondent. In fact, the decision has been taken on 16-11-1984 to cancel the order of reemployment of the petitioner dated 29-9-1984. The petitioner, in these circumstances, prayed for the amendment of the writ petition which amendment has been allowed by this Court on 7-12-1984. The prayer has been made by the petitioner by amendment to declare the resolution dated 16-11-1984 and office order made pursuant thereof dated 23-11-1984 to be illegal and arbitrary. On 21st December, 1984, this court has been pleased to grant the interim relief in favour of the petitioner and he was allowed to work on the post of Divisional Accountant on reemployment. The reemployment was admittedly only for one year and if the period of reemployment was taken from 1-10-1984 or 1-11-1984, it has come to an end long back and as such, nothing survives in this Special Civil Application.

4. The counsel for the respondent also does not dispute that the period of reemployment of the petitioner was only for one year and that period has come to an end long back. In these facts and circumstances, I am of the opinion that this writ petition has become infructuous and nothing survives therein to be decided on merits. A reference in this respect may have to the decision of the

Supreme Court in the case of S.A. Rasheed vs. Director of Mines & Geology reported in AIR 1995 SC 1739.

5. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief granted by this Court stands vacated. However, it is made clear that the dismissal of this writ petition will not give any right to the respondent to recover the amount of salary paid to the petitioner for the period of his working on reemployment.
